

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 743

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO PROPERTY TAXATION; IMPLEMENTING ARTICLE 8, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO; EXPANDING THE VETERANS' PROPERTY TAX EXEMPTION TO APPLY TO ALL HONORABLY DISCHARGED VETERANS; PROVIDING REBATES IN LIEU OF THE 2004 REDUCTION IN PROPERTY TAXES DUE FOR NEWLY ELIGIBLE VETERANS FOR TAXES PAID; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-37-5 NMSA 1978 (being Laws 1973, Chapter 258, Section 38, as amended) is amended to read:

"7-37-5. VETERAN EXEMPTION. --

A. Up to four thousand dollars (\$4,000) of the taxable value of property, including the community or joint property of husband and wife, subject to the tax is exempt from the imposition of the tax if the property is owned by a veteran

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 or the veteran's unmarried surviving spouse if the veteran or
2 surviving spouse is a New Mexico resident or if the property is
3 held in a grantor trust established under Sections 671 through
4 677 of the Internal Revenue Code of 1986, as those sections may
5 be amended or renumbered, by a veteran or the veteran's
6 unmarried surviving spouse if the veteran or surviving spouse
7 is a New Mexico resident. The exemption shall be deducted from
8 the taxable value of the property to determine the net taxable
9 value of the property. The exemption allowed shall be in the
10 following amounts for the specified tax years:

11 [~~(1)~~] ~~for tax years prior to 2003, the~~
12 ~~exemption shall be two thousand dollars (\$2,000);~~

13 ~~(2) for tax year 2003, the exemption shall be~~
14 ~~two thousand five hundred dollars (\$2,500);]~~

15 [~~(3)~~] (1) for tax year 2004, the exemption
16 shall be three thousand dollars (\$3,000);

17 [~~(4)~~] (2) for tax year 2005, the exemption
18 shall be three thousand five hundred dollars (\$3,500); and

19 [~~(5)~~] (3) for tax year 2006 and each
20 subsequent tax year, the exemption shall be four thousand
21 dollars (\$4,000).

22 B. Except for the veteran exemption for the
23 property tax year 2004 that applies to veterans qualifying due
24 to the amendment of Article 8, Section 5 of the constitution of
25 New Mexico adopted in 2004, the veteran exemption shall be

underscored material = new
[bracketed material] = delete

1 applied only if claimed and allowed in accordance with Section
2 7-38-17 NMSA 1978 and regulations of the department.

3 Procedures are set forth in Section 3 of this 2005 act for
4 claiming a tax rebate in lieu of the reduction in property
5 taxes that would have been claimed by a veteran or the
6 veteran's surviving spouse due to the 2004 veteran exemption
7 for veterans who:

8 (1) qualified due to the 2004 amendments to
9 the constitution of New Mexico; and

10 (2) paid property tax for property tax year
11 2004 on qualified property.

12 C. As used in this section, "veteran" means an
13 individual who:

14 (1) has been honorably discharged from
15 membership in the armed forces of the United States; and

16 (2) except as provided in this section, served
17 in the armed forces of the United States on active duty
18 continuously for ninety days. [~~any part of which occurred~~
19 ~~during a period specified in Paragraph (3) of this subsection;~~
20 ~~and~~

21 ~~(3) served in the armed forces of the~~
22 ~~United States during one or more of the following periods of~~
23 ~~armed conflict under orders of the president:~~

24 ~~(a) any armed conflict prior to World~~
25 ~~War I;~~

. 152770. 2

underscored material = new
[bracketed material] = delete

1 ~~(b) World War I, which, for the purposes~~
2 ~~of this section, is defined as the period April 6, 1917 through~~
3 ~~April 1, 1920;~~

4 ~~(c) World War II, which, for the~~
5 ~~purposes of this section, is defined as the period December 7,~~
6 ~~1941 through December 31, 1946;~~

7 ~~(d) the Korean conflict, which, for the~~
8 ~~purposes of this section, is defined as the period June 27,~~
9 ~~1950 through January 31, 1955;~~

10 ~~(e) the Vietnam conflict, which, for the~~
11 ~~purposes of this section, is defined as the period August 5,~~
12 ~~1964 through May 7, 1975;~~

13 ~~(f) the Grenada conflict, which, for the~~
14 ~~purposes of this section, is defined as the period October 13~~
15 ~~through December 31, 1983; or~~

16 ~~(g) the Persian gulf conflict, which,~~
17 ~~for the purposes of this section, is defined as the period~~
18 ~~August 2, 1990 through the date upon which the president of the~~
19 ~~United States or a competent military authority declares the~~
20 ~~conflict to be ended, but in no case earlier than July 1,~~
21 ~~1992.]~~

22 D. For the purposes of Subsection C of this
23 section, a person who would otherwise be entitled to status as
24 a veteran except for failure to have served in the armed forces
25 continuously for ninety days is considered to have met that

. 152770. 2

underscored material = new
[bracketed material] = delete

1 qualification if ~~[he]~~ the person served ~~[during the applicable~~
2 ~~period]~~ for less than ninety days and the reason for not having
3 served for ninety days was a discharge brought about by
4 service-connected disablement.

5 E. For the purposes of ~~[Paragraph (1) of]~~
6 Subsection C of this section, a person has been "honorably
7 discharged" unless ~~[he]~~ the person received either a
8 dishonorable discharge or a discharge for misconduct.

9 F. For the purposes of this section, a person whose
10 civilian service has been recognized as service in the armed
11 forces of the United States under federal law and who has been
12 issued a discharge certificate by a branch of the armed forces
13 of the United States shall be considered to have served in the
14 armed forces of the United States. "

15 Section 2. Section 7-38-17 NMSA 1978 (being Laws 1973,
16 Chapter 258, Section 57, as amended) is amended to read:

17 "7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES. --

18 A. Subject to the requirements of Subsection E of
19 this section, head-of-family exemptions claimed and allowed in
20 the 1974 or a subsequent tax year, veteran exemptions claimed
21 and allowed in the 1982 or a subsequent tax year or disabled
22 veteran exemptions claimed and allowed in the 2000 or a
23 subsequent tax year need not be claimed for subsequent tax
24 years if there is no change in eligibility for the exemption
25 nor any change in ownership of the property against which the

. 152770. 2

underscored material = new
[bracketed material] = delete

1 exemption was claimed. Head-of-family and veteran exemptions
2 allowable under this subsection shall be applied automatically
3 by county assessors in the subsequent tax years.

4 B. Beginning with the 1983 tax year, other
5 exemptions of real property specified under Section 7-36-7 NMSA
6 1978 for nongovernmental entities shall be claimed in order to
7 be allowed. Once such exemptions are claimed and allowed for a
8 tax year, they need not be claimed for subsequent tax years if
9 there is no change in eligibility. Exemptions allowable under
10 this subsection shall be applied automatically by county
11 assessors in subsequent tax years.

12 C. Except as set forth in Subsection H of this
13 section, an exemption required to be claimed under this section
14 shall be applied for no later than thirty days after the
15 mailing of the county assessor's notices of valuation pursuant
16 to Section 7-38-20 NMSA 1978 in order for it to be allowed for
17 that tax year.

18 D. A person who has had an exemption applied to a
19 tax year and subsequently becomes ineligible for the exemption
20 because of a change in the person's status or a change in the
21 ownership of the property against which the exemption was
22 applied shall notify the county assessor of the loss of
23 eligibility for the exemption by the last day of February of
24 the tax year immediately following the year in which loss of
25 eligibility occurs.

. 152770. 2

underscored material = new
[bracketed material] = delete

1 E. Exemptions may be claimed by filing proof of
2 eligibility for the exemption with the county assessor. The
3 proof shall be in a form prescribed by regulation of the
4 department. Procedures for determining eligibility of
5 claimants for any exemption shall be prescribed by regulation
6 of the department, and these regulations shall include
7 provisions for requiring the veterans' services department to
8 issue certificates of eligibility for veteran exemptions in a
9 form and with the information required by the department. The
10 regulations shall also include verification procedures to
11 assure that veteran exemptions in excess of the amount
12 authorized under Section 7-37-5 NMSA 1978 are not allowed as a
13 result of multiple claiming in more than one county or claiming
14 against more than one property in a single tax year.

15 F. The department shall consult and cooperate with
16 the veterans' services department in the development, adoption
17 and promulgation of regulations under Subsection E of this
18 section. The veterans' services department shall comply with
19 the promulgated regulations. The veterans' services department
20 shall collect a fee of five dollars (\$5.00) for the issuance of
21 a duplicate certificate of eligibility to a veteran.

22 G. A person who violates the provisions of this
23 section by intentionally claiming and receiving the benefit of
24 an exemption to which the person is not entitled or who fails
25 to comply with the provisions of Subsection D of this section

. 152770. 2

underscored material = new
[bracketed material] = delete

1 is guilty of a misdemeanor and shall be punished by a fine of
2 not more than one thousand dollars (\$1,000). A county assessor
3 or the assessor's employee who knowingly permits a claimant for
4 an exemption to receive the benefit of an exemption to which
5 the claimant is not entitled is guilty of a misdemeanor and
6 shall be punished by a fine of not more than one thousand
7 dollars (\$1,000) and shall also be automatically removed from
8 office or dismissed from employment upon conviction under this
9 subsection.

10 H. A veteran or the veteran's unmarried surviving
11 spouse who became eligible to receive a property tax exemption
12 due to the expansion of the class of eligible veterans
13 resulting from approval by the electorate in November 2004 of
14 an amendment to Article 8, Section 5 of the constitution of New
15 Mexico and who paid property taxes on qualified property in the
16 property tax year 2004, may apply to the department no later
17 than December 31, 2005 to receive a rebate in lieu of the
18 reduction in property taxes that the veteran or the veteran's
19 surviving spouse would have claimed as a result of the
20 exemption allowed for the 2004 property tax year. A veteran or
21 the veteran's unmarried surviving spouse shall submit to the
22 department documentation in the form of a certificate of
23 eligibility from the veterans' services department for the 2004
24 property tax year, a 2004 valuation notice for the property to
25 which the exemption will apply and verification of property

. 152770. 2

1 taxes paid on that property in property tax year 2004 and any
2 other application information required by the taxation and
3 revenue department. "

4 Section 3. TEMPORARY PROVISION. --

5 A. The taxation and revenue department shall accept
6 and review a claim for a rebate for taxes due and paid on
7 qualified property in lieu of the reduction in property taxes
8 that would have been due to a veteran or the veteran's
9 unmarried surviving spouse if the veteran had been able to
10 claim the veteran's exemption in the 2004 property tax year
11 pursuant to Article 8, Section 5 of the constitution of New
12 Mexico.

13 B. To be eligible for a rebate, the veteran or the
14 veteran's unmarried surviving spouse shall have to have been
15 added to the class of eligible veterans as a result of the
16 amendment to Article 8, Section 5 of the constitution of New
17 Mexico adopted in November 2004 and shall have paid property
18 tax on qualified property, as determined by the taxation and
19 revenue department, in property tax year 2004.

20 C. A veteran or the veteran's unmarried surviving
21 spouse shall present to the taxation and revenue department a
22 certificate of eligibility from the veterans' services
23 department for the 2004 property tax year, a 2004 valuation
24 notice for the property to which the exemption would have
25 applied in property tax year 2004, verification that the tax

. 152770. 2

underscored material = new
[bracketed material] = delete

1 was paid on the qualified property in 2004 and any other
2 application information required by the taxation and revenue
3 department.

4 D. The taxation and revenue department shall review
5 the documents presented by the veteran or the veteran's
6 unmarried surviving spouse to determine the taxpayer's
7 eligibility to receive a rebate in lieu of the reduction in the
8 2004 property taxes that the veteran or the veteran's surviving
9 spouse would have claimed on qualified property in property tax
10 year 2004. The department may require verification from the
11 county in which the property is located that a veteran's tax
12 exemption was not applied to the property in 2004.

13 E. The taxation and revenue department shall
14 determine the amount of rebate due to each veteran.

15 Section 4. APPROPRIATION. -- Five million dollars
16 (\$5,000,000) is appropriated from the general fund to the tax
17 administration suspense fund for expenditure in fiscal years
18 2005 and 2006 to provide rebates to veterans who became
19 eligible for a property tax exemption in the 2004 property tax
20 year due to the approval by the electorate of an amendment to
21 Article 8, Section 5 of the constitution of New Mexico in
22 November 2004 and who paid property tax on qualified property
23 in property tax year 2004. Any unexpended or unencumbered
24 balance remaining at the end of fiscal year 2006 shall revert
25 to the general fund.

. 152770. 2

